



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Monticello Field Office

P.O. Box 7

Monticello, Utah 84535

IN REPLY REFER TO:

3809

UTU-71002

(UT-090)

MAY 20 2003

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Certification No.: 7002 0510 0000 4927 9848

DECISION

Operator: Jason Shumway
c/o Devar Shumway
1025 S. 200 E. (95-15)
Blanding, UT 84511

: Notice: UTU-71002
: Project Name: Picture Rock Quarry
:
:

Notice Expired Reclamation Required

Notice, UTU-71002, was filed with this office on August 27, 1993. The Surface Management regulations, 43 CFR 3809.333, require that an operator wishing to extend his/her notice which was on file as of January 20, 2001, notify the Bureau of Land Management (BLM) in writing on or before the expiration date, January 20, 2003, and meet the financial guarantee requirements of 43 CFR 3809.503. The BLM did not receive the necessary written notification that you wish to extend your Notice. Because you have not met the requirements under §3809.333, your notice, UTU-71002, expired on January 20, 2003.

Pursuant to 43 CFR 3809.335, you must immediately cease all operations with the exception of reclamation. An inspection of the subject site on May 01, 2003, revealed reclamation obligations. To ensure that you meet the standards described in 3809.1-3 (d), the following items must be completed:

1. The piles of overburden material and the cut slope along the west margin of the site must be re-graded.
2. The entire site, including the loop access road, must be scarified and seeded this fall.

You must notify this office before you start reclamation and again upon completion of reclamation. BLM will schedule an inspection to verify whether you have met your reclamation obligations and notify you promptly in writing of the results of the inspection and close your notice if appropriate.

Your reclamation obligation continues beyond the expiration of your notice until such time as BLM determines that the reclamation is satisfactorily completed. Failure to begin reclamation promptly or

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DIV. OF OIL GAS & MIN.

to conduct reclamation to BLM specified standards is subject to the enforcement actions specified in 43 CFR 3809.601 to 43 CFR 3809.701.

If you wish to resume operations, you may postpone reclamation if you file either a new notice pursuant to 43 CFR 3809.301 or a plan of operations pursuant to 43 CFR 3809.401 within 30 days from receipt of this decision. The performance standards outlined in 43 CFR 3809.420 and the financial guarantee requirements provided in 43 CFR 3809.500, et seq., applies to both notices and plans. The notice must be accepted or the plan of operations must be approved and a financial guarantee accepted prior to any additional earth disturbing activities occurring at this site. If the newly submitted notice is not accepted or the plan of operations is not approved or you do not timely post the appropriate financial guarantee as requested for either a notice or a plan of operation, you must begin reclamation within 30 days of BLM's decision finding that the new notice or plan of operations or financial guarantee is incomplete or unacceptable.

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM receives the request for State Director Review. You have 30 days from the end of the 21 day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to by pass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (Monticello Field Office, P.O. Box 7, Monticello, Utah 84535) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Sincerely,


Patrick Madigan
Field Manager

cc: Wayne Hedberg, DOGM (S/037/099)